



In the claims:

Amend claims 2, 3, 27, 30, 33 and 34, as follows:

~~Claim 2~~/line 1, change "32 and 33" to "34".

~~Claim 3~~/line 1, change "32 and 33" to "34".

Claim 27/line 1, delete "A" and substitute therefor --The compound of claim 1 which is a--.

Claim 30/line 4, change "and 29" to --or 29--.

Claim 33/line 4, change "and 29" to --or 29--.

Claim 34/line 4, change "and 29" to --or 29--.

Add new claims 36 and 37, as follows:

34 31
-36. (New) A method of claim ~~35~~, wherein, in the compound of Formula (1), Ar is phenyl, pyridyl or 2,3-dihydrobenzofuranyl, each optionally substituted with 1 to 4 R⁴ substituents.--

35 31
-37. (New) A method of claim ~~35~~, wherein, in the compound of Formula (1), Ar is 2,4-dichlorophenyl, 2,4-dimethylphenyl or 2,4,6-trimethylphenyl, R¹ and R² are CH₃ and R³ is NR^{6a}R^{7a}--

Remarks

Applicants respectfully request entry of new claims 36 and 37 into this application, their addition not inserting new matter into the application support for the new claims being found throughout the application, e.g., in originally filed claims 1-3. The claim amendments set forth hereinabove were made to more clearly set forth the proper dependencies of the amended claims; these amendments thus also do not add new matter to this application.

Claims 2-30 and 32-37 will be pending in this application upon entry of new claims 36 and 37. In this regard, applicants note that claims 1-31 were present in this application upon its filing. Subsequently, applicants canceled claims 1 and 31, and at the same time, added four new claims. However, these new claims were mistakenly numbered by applicants as 32, 33, 33 and 34, rather 32, 33, 34 and 35 as they should have been. Thus, with the addition of new claims 36 and 37 hereinabove, claims 2-30 and 32-37 will be pending herein.

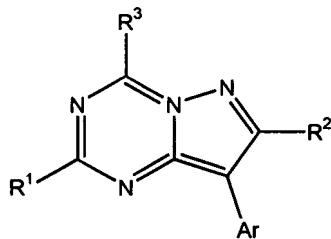
325 324

Claims 2, 3, 30, 33 and 34 stand rejected under 35 U.S.C. §112, 5th paragraph as being improper for their reference to multiple claims using "and" instead of "or", and because of their dependence upon a claim which is itself a multiple dependent claim. Applicants respectfully request the withdrawal of this rejection in view of the claim amendments and new claim additions made hereinabove.

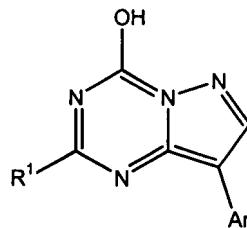
The examiner next stated that claim 4 was being rejected under 35 U.S.C. §103; however, no art was cited in support of the rejection, which is thus clearly improper (see, e.g., Section 103: "A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art [emphasis added]..."; see also, M.P.E.P. §706.02(j) ("Contents of a 35 U.S.C. 103 rejection): "After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action (1) the relevant teachings of the prior art relied upon ..."). Applicants note the examiner's citation of case law, but these refer to structural obviousness in the context of the structure of a claimed compound and a structure described in a particular piece of prior art. *However, in the instance of this rejection, no such piece of art has been cited.*

Applicants also note the examiner's reference to the provisos set forth in claim 4, as well as his statement that said provisos "make it impossible to determine patentability." Applicants respectfully suggest that, if indeed the examiner determined that applicants' compounds were not clearly described, then a rejection under 35 U.S.C. §112, 2nd paragraph for lack of clarity would have been the more appropriate basis for rejecting claim 4. However, applicants also submit that the provisos in claim 4 do not attribute to that claim a lack of clarity and hence, such a rejection should not be made.

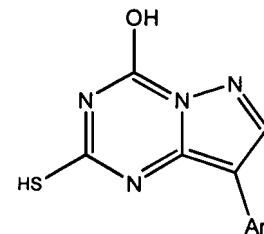
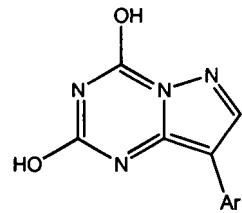
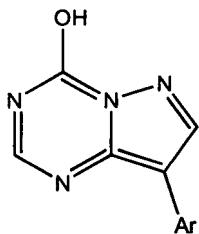
More specifically, claim 4 is directed to compounds having the following structure:



Proviso #1 of claim 4 (when R² is H, R³ is -OR⁷ and R⁷ is H, then R¹ is not H, OH or SH) clearly indicates that the claim encompasses compounds of the structure



wherein R¹ is C₁₋₄ alkyl, C₂₋₄ alkenyl, C₂₋₄ alkynyl, halo, CN, C₁₋₄ haloalkyl, C₁₋₁₂ hydroxyalkyl, C₂₋₁₂ alkoxyalkyl, C₂₋₁₀ cyanoalkyl, C₃₋₆ cycloalkyl, C₄₋₁₀ cycloalkylalkyl, NR⁹R¹⁰, C₁₋₄ alkyl-NR⁹R¹⁰, NR⁹COR¹⁰, OR¹¹ (except where R¹¹ is H) or S(O)_nR¹² (see the definition of R¹ in claim 4), but not the compounds:



Accordingly, the proviso makes it clear which compounds are encompassed within the scope of the claim and which are not, and hence, does not lend claim 4 a lack of clarity. Moreover, as applicants have previously stated, proviso (1) was specifically intended to, and does, exclude compounds disclosed in EP 269,859. Hence, the reason for the exclusion of particular compounds from claim 4, as well as the scope of the exclusion, are made even more clear by these documents.

Provisos 2-5 of claim 4 similarly exclude from the claim scope particular, individual compounds, and hence, do not reduce the clarity of the claim; these provisos were also, as applicants have previously stated made to exclude specific, individual compounds described in the art from the scope of the claim - proviso (2) excludes compounds which are disclosed in U.S. Patent No. 3,910,907; proviso (3) excludes compounds which are disclosed in U.S. Patent No. 3,995,039; proviso (4) excludes compounds which are disclosed in U.S. Patent No. 4,892,576; and, proviso (5) excludes compounds which are disclosed in U.S. Patent No. 5,484,760 and WO 92/10098. Hence, the reason for the exclusion of particular compounds from claim 4, as well as the scope of the exclusion, are made even more clear by these documents.

Furthermore, the claims of this application stand rejected "as the prior art as a whole would have suggested a pharmaceutical [sic] for depression or anxiety." However, no statutory basis for this "rejection" was set forth, nor,

as is clearly required, was any particular prior art cited in support of the examiner's statement. Therefore this "rejection" is not a proper rejection, and does not require a response by applicants. Nevertheless, applicants maintain that there is no art which describes their claimed compounds, and thus, there can be, and is, no art describing their therapeutic use; in this regard, applicants note that no such art has been put forth in this application.

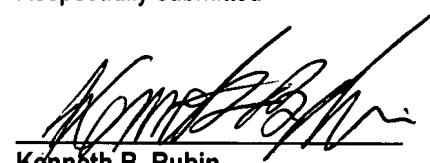
Furthermore, the examiner has made the following comments, to which applicants have the following answer: the examiner asked what the reference to "cPr" on p. 278 means - in response, applicants note that this abbreviation is indicative of "cyclopropyl;" the examiner states that each of the compounds set forth in claim 27 represents a "a separate question of patentability" - in response, applicants maintain that each compound does not represent a separate such question, but rather, the patentability of each of the compounds can be adjudged as a whole based upon the core structure provided in the claim or on the patentability of the compounds of claim 4, in that the compounds of claim 27 are compounds of claim 4, wherein R¹ and R² are methyl and Ar is an optionally substituted phenyl (in this regard, applicants note the amendment of claim 27 hereinabove so as to make that claim now dependent upon claim 4); and, the examiner noted applicants' mistaken claim numbering - in response applicants note their remarks hereinabove as to claim numbering made hereinabove.

Applicants thus maintain the application is in condition for allowance; early notice to that effect is respectfully requested.

No fee is deemed necessary by applicants in connection with the filing of this Amendment, other than the fee required in connection with the accompanying request for a three-month extension of time.

Respectfully submitted

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(Date)


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